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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,403	12/19/2001	Brian K. Doyle	ADV12P302A	4925

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EXAMINER
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TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/025,403

Applicant(s)

DOYLE ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,8,11,12,14-17,19,20,22-27,29-33,35-41,43,45-48,50,51,53-55,57,59 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1,2,5,7,8,11,12,14-17,19,20,22-27,29-33,35-41,43,45-48,50,51,53-55,57,59 and 60.

The indicated allowability of claims 50 and 61 and the finality of the office action mailed 7/26/05 are withdrawn in view of the newly discovered reference(s) to Higgins et al. Rejections based on the newly cited reference(s) follow.

Claims 1-2, 5,7-8,11-12,14-17,19-20,22-27,29-33,35-41,43,45-48,50-51,53-55,57,59-60 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed 11/28/05, applicant amends claims 1, 24,43,46,48,54,55,57 and 59 to add the limitation that the coating composition comprises " 25-30%" flour. This limitation is not supported by the original claims and specification. The insertion into the specification as supported by the provisional applications only discloses rice flour; there is no disclosure of other flour. The limitation of " flour" includes many other types of flour which are not disclosed in the specification.

Claims 1-2, 5,7-8,11-12,14-17,19-20,22-27,29-33,35-41,43,45-48,50-51,53-55,57,59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cremer in view of Friedman et al and Higgins et al.

Cremer discloses a method of producing French fried potatoes from dehydrated potato granules or flakes. The dry potato product is mixed with a binder comprising starches to form a dough and the dough is placed in an extruder or other device which

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may form the dough into various shapes. The formed product is fried in oil. The extruded product can also be frozen and fried at a later time. (see columns 5-6)

Cremer does not disclose coating the potato product with a coating comprising starch components, coating comprising flour, modified ungelatinized potato starch and dextrin in the amounts claimed, the shape having slender and elongated portion, a waffle and pancake shape, baking the product, adding egg, parfrying and then frozen, the overall thickness of not more than about 4 cm, making a waffle shape, finish-cooking in a toaster, shape which emulates slice of a natural food, predusting with dry particulate starch and adding a stabilizer as cited in claims 50,53.

Friedman et al disclose a clear coating composition for potato products. The composition comprises starch, about 5-25% dextrin and about 5-25% rice flour. The coating improves the eating quality of the fried potato product in term of crispness. The coating also improves the crispness, toughness and toothpack of fried product held under heatlamp. (see col 1 line 55 through col. 2 line 10)

Higgins et al disclose a coating composition for foods. They teach to add modified potato starch in amount ranging from 10-80% to adjust the crunchy texture of the coating. ( see col. 6 lines 40-52)

It would have been obvious to coat the Cremer potato product with the clear coating disclosed by Friedman et al for the advantage disclosed by Friedman et al. It would also have been obvious to add modified potato starch as taught by Higgins et al into the Friedman et al coating when it is desired to adjust the crunchy texture of the coating. Since Higgins et al do not disclose that the starch is gelatinized, it is obvious

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the starch is ungelatinized because that is the natural form of starch. It would have been obvious to vary the amount within the range taught by Higgins et al depending on the degree of crunchiness desired. It would also have been obvious to dust the food product with flour or starch to prevent sticking of the product to the working surface and to enhance the crispness of the product. It is well known in the art to coat food product with flour or starch before frying to make the product crispy. It would also have been obvious to make the product in any shape and form including waffle and pancake shape', this is a matter of design form and would have been a matter of preference. French fries products come in many different shapes and Cremer teaches the dough can be formed into various shapes. It would also have been obvious to make the product to have any varying thickness depending on the texture desired. Thin product gives a crunchy texture while thicker product gives a more mealy texture; one can choose thin, thick or any variance in between. It would have been obvious to add a stabilizer such as gum or carboxymethylcellulose or carrageen to control the viscosity of the dough. All these additives are well known thickening agents that are commonly added to dough product. Adding an additive for its art-recognized function would have been obvious to one skilled in the art. It would have been obvious to par-fry the product before freezing to reduce the reheating time when the product is ready for consumption. This concept is well known in the art. It would have been obvious to use any known cooking device for reheating. A toaster oven is well known to be used to reheat many products including pizza, tater tots, roll etc...It would have been obvious to bake the product instead of frying when one wants to reduce the fat content of the product.

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Cremer teaches to add a binder to the dough; thus, it would have been obvious to add egg to enhance the binding because egg is a commonly used binding agent.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408.

The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 13, 2005

  
LIEN TRAN  
PRIMARY EXAMINER  


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